

REMARKS

This is in full and timely response to the non-final Office Action dated January 5, 2007. The present Amendment amends claims 1, 4, and 6 and cancels claims 2, 3, 5, and 7-9 in order to further clarify a portion of the scope sought to be patented, and otherwise disputes certain findings of fact made in connection with the rejection of the claims. Support for these amendments can be found variously throughout the Specification, including, for example, original claims 1, 4, and 6 and on page 16, line 8 through page 19, line 9. No new matter has been added. Accordingly, claims 1, 4, and 6 are presently pending in the application, each of which is believed to be in immediate condition for allowance. Reexamination and reconsideration in light of the present Amendment and the following remarks are respectfully requested.

Information Disclosure Statement

It is noted with appreciation that the Information Disclosure Statement filed on October 20, 2004 has been considered by the Examiner.

Title

In accordance with the above Amendments, Applicant proposes amending the Title of the present invention to read: "METHOD FOR ANALYSIS OF AN ABLATED SURFACE, ANALYSIS ON INCONSISTENCY IN A LASER BEAM, AND CALIBRATION OF LASER BEAM IRRADIATION DATA." If, however, the examiner feels the proposed Title fails to aptly describe the invention to which the claims are directed, the examiner may amend as necessary.

Claim Rejections- 35 U.S.C. § 102

In the Action, claims 1-9 were rejected under 35 U.S.C. § 102(e) as allegedly being anticipated by U.S. Patent No. 6,932,806 to Nakamura ("Nakamura"). Additionally, claims 7-9 were rejected under 35 U.S.C. § 102(b) as allegedly being anticipated by U.S. Patent No. 6,033,075 to Fujieda et al. ("Fujieda"). This rejection is respectfully traversed for at least the following reasons.

To properly anticipate a claim, the document must disclose, explicitly or implicitly, each and every feature recited in the claim. *See, e.g., Verdegall Bros. v. Union Oil Co. of Calif.*, 814 F.2d 628, 631, 2 USPQ2d 1051, 1053 (Fed. Cir. 1987).

Nakamura teaches that assessment of intensity distribution of a laser beam is performed by illuminating and photographing a photo-ablated plate, by making use of a fact that when photo-ablation is caused by irradiating a laser beam onto a light-transmitting plate such as a positive film, the quantity of light transmitted through the plate varies according to a difference in an amount of the photo-ablation (see column 3, lines 25-57 of Nakamura).

However, in contrast to the invention as recited in claim 1, Nakamura performs irradiation of the laser beam onto an object formed like a plate similar to a technique of using a PMMA plate mentioned as a prior art in the specification of the present application (see page 1, line 25 to page 2, line 15 of the present specification), and it is fundamentally different from the presently claimed invention in that a reference object for evaluation having a first curved surface shape being approximate to a curved surface shape of a cornea is not used. The cornea has the curved surface shape, and there is a difference between irradiation onto a curved surface, as presently claimed, and irradiation onto a plane surface, as taught by Nakamura; partial ablation of the cornea tends to be influenced by the curved surface thereof. In the present invention, a laser beam is irradiated onto a reference object for evaluation having a first curved surface shape being approximate to a curved surface shape of a cornea, and a result of the irradiation is measured by a corneal shape measurement optical unit, and a result of the measurement is analyzed. Nakamura does not disclose, teach, or even suggest such a technical idea.

Claims 7-9 are canceled without prejudice or disclaimer regarding their underlying subject matter, thereby obviating the rejection of these claims over Fujieda.

Further, Fujieda teaches a technique for obtaining corneal ablation amount data which makes aberration smaller based on refractive power distribution and shape distribution of a cornea of an eye to be operated on in refractive power correction of the cornea.

However, although Fujieda teaches the technique for obtaining the corneal ablation amount data which makes the aberration smaller in regard to a conventional method for obtaining the

corneal ablation amount data, the technique disclosed by Fujieda does not perform an analysis on a state of a surface ablated by an apparatus, an analysis on inconsistency in a laser beam, and calibration on irradiation data of the laser beam, as recited in claim 1.

Accordingly, because Nakamura and Fujieda each fails to disclose, teach or suggest each and every limitation of claim 1, a *prima facie* anticipation rejection has not been established, and withdrawal of this rejection is respectfully requested. See, e.g., *Verdegaal Bros. v. Union Oil Co. of California*, 814 F.2d 628, 631, 2 USPQ2d 1051, 1053 (Fed. Cir. 1987) ("A claim is anticipated only if each and every element as set forth in the claim is found, either expressly or inherently described, in a single prior art reference"). See also *Richardson v. Suzuki Motor Co.*, 868 F.2d 1226, 1236, 9 USPQ2d 1566 (Fed. Cir. 1989). ("The identical invention must be shown in as complete detail as is contained in the ... claim.").

Moreover, aside from the novel limitations recited therein, claims 4 and 6, being dependent either directly or indirectly upon allowable base claim 1, are also allowable for at least the reasons set forth above. Withdrawal of the rejection of these claims is therefore courteously solicited.

CONCLUSION

In view of the above amendment, applicant believes the pending application is in condition for allowance.

Applicant believes no fee is due with this response. However, if a fee is due, please charge our Deposit Account No. 18-0013, under Order No. WEN-0037 from which the undersigned is authorized to draw.

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Respectfully submitted,

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